

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LEVELT MUSGRAVES,

Petitioner,

v.

JUDY P. SMITH,

Respondent.

Case No. 13-CV-84-JPS

ORDER

On January 23, 2013, the petitioner, Levelt Musgraves (“Musgraves”), filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (Docket #1). The Court denied that writ on April 10, 2013. (Docket #9).

Approximately three and a half years later, on September 23, 2016, Musgraves filed a “Motion for Cause to Excuse [Procedural Default]” (Docket #26), which the Court again denied. On November 16, 2016, Musgraves filed yet another motion to “expunge” the Court’s previous Order. (Docket #32). As detailed in the Court’s previous order (Docket #30), Musgraves has not provided a sufficient bases for reconsideration.

Additionally, on December 1, 2016, Musgraves filed a motion to appeal without prepayment of the filing fee along with his notice of appeal. (Docket #33, #35). The Court and the Seventh Circuit have already issued orders denying Musgraves a certificate of appealability. (Docket #20, #24). Regardless of indigency, an appellant may not take an appeal in forma pauperis if the district court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3). An appeal is not taken in good faith when the court finds that no reasonable person could suppose the appeal to have any merit. *See Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

Here, Mr. Musgraves, again, provides the Court no new basis to escape the conclusions it reached in dismissing the above-titled action. Thus, the Court is obliged to and will deny Mr. Musgraves' motion for leave to appeal without prepayment of the filing fee.

Accordingly,

IT IS ORDERED that the petitioner's motion to expunge (Docket #32) be and the same is hereby **DENIED**; and

It IS FURTHER ORDERED that the petitioner's motion to appeal without prepayment of the filing fee (Docket #35) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 5th day of December, 2016.

BY THE COURT:

s/ J. P. Stadtmueller

J.P. Stadtmueller
U.S. District Judge